

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOLLY WINN,

Plaintiff,

- against -

FHT MEDIA HOLDINGS LLC,

Defendant.

Docket No. 1:17-cv-6897

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Molly Winn (“Winn” or “Plaintiff”), by and through her undersigned counsel, as and for her Complaint against Defendant FHT Media Holdings, LLC (“FHT” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of thirteen (13) copyrighted photographs of Chip and Joanna Gaines’ farmhouse, owned and registered by Winn, a Waco, Texas based photographer. Accordingly, Winn seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant is transacting business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Winn is a professional photographer in the business of selling her photographs having a usual place of business at 2514 Colcord Avenue, Waco Texas 76707.

6. Upon information and belief, FHT is a corporation duly organized and existing under the laws of the State of Tennessee, with a place of business at 6 Cadillac Drive, Suite 280, Brentwood, Tennessee 37027. At all times material hereto, FHT has owned and operated a website at the following URL: www.Womanista.com (the “Website”).

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photographs

7. On February 28, 2014, Winn photographed Chip and Joanna Gaines’¹ Texas farmhouse (the “Farmhouse Photographs”). True and correct copies of the Farmhouse Photographs are attached hereto as Exhibit A.

8. Winn is the author of the Farmhouse Photographs and has at all times been the sole owner of all right, title and interest in and to the Farmhouse Photographs, including the copyrights thereto.

9. The Farmhouse Photographs were registered with the United States Copyright Office and was given Copyright Registration Number VA 2-034-831.

B. Defendant’s Infringing Activities

10. Upon information and belief, on April 11, 2016, FHT ran an article on the Website entitled “Tour Chip and Joanna Gaines’ Stunning Farmhouse.” The article prominently

featured the Farmhouse Photographs. Screenshots of FHT's article displaying the Farmhouse Photographs are attached hereto as Exhibit B.

11. FHT did not license the Farmhouse Photographs from Plaintiff for its article and did not have Plaintiff's permission or consent to publish the Farmhouse Photographs on its Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST FHT)
(17 U.S.C. §§ 106, 501)

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. FHT infringed Plaintiff's copyrights in the Farmhouse Photographs by reproducing and publicly displaying the Farmhouse Photographs on its Website. FHT is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Farmhouse Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by FHT have been willful, intentional, and purposeful, in disregard of and with indifference to Plaintiff's rights.

16. As a result of Defendant's infringement of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to recover her damages and Defendant's profits pursuant to 17 U.S.C. § 504(b).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant FHT be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded her actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded pre-judgment interest; and
5. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: September 12, 2017
Valley Stream, New York

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